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8 UNITED STATES BANKRUPTCY COURT
9 NORTHERN DISTRICT OF CALIFORNIA
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11 In re:)	Case No. 10-41653 RJN
12 MARK KESEL)	CHAPTER 11
13 Debtor.)	
14)	Date: April 6, 2011
15)	Time: 9:30 A.M.
16)	Place: 1300 Clay Street
17)	Courtroom 220
)	Oakland, CA 94612
)	Judge: Randall J. Newsome

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19 **STATUS CONFERENCE STATEMENT**

20 Debtor, Mark Kesel ("Debtor"), submits the following Status Conference Statement for
21 the Status Conference scheduled in this case on April 6, 2011, at 9:30 A.M.

22 1. **INTRODUCTION**

23 Debtor commenced his Chapter 11 case on February 16, 2010. Debtor is compliant with
24 the filing of his monthly operating reports and the payment of his fees to the U.S. Trustee. An
25 initial Status Conference was held on May 26, 2010. A subsequent Status Conference was held
26 on June 30, 2010. A hearing in September 2010 was continued to April 6, 2011 to allow time for
27 completion of an appellate proceeding.

28 For the reasons set forth below, Debtor suggests that the Status Conference be continued

1 to the July 2011 calendar.

2 **2. STATUS OF CHAPTER 11 CASE**

3 A. Status of Appeal

4 One of the primary issues in this case involves a judgment which purports to render
5 Debtor liable to Applied Materials for a sum in excess of \$1,500,000. Mr. Kesel appealed the
6 Judgment and the appellate court affirmed. Debtor is evaluating his options with respect to his
7 Chapter 11 case in view of the appellate ruling.

8 B. Settlement Negotiations

9 Counsel for Debtor has been engaged in settlement discussions with Applied Materials
10 (as well as counsel for Debtor's co-defendants in the litigation as to which Mr. Kesel is a
11 judgment debtor), and settlement discussions have made some progress, with each side having
12 exchanged global settlement proposals. No settlement has been reached as of this time, however,
13 the settlement dialogue is continuing. The parties have agreed to further extend the deadline for
14 Applied Materials to file non-dischargeability actions pending further discussions. In view of
15 certain issues which remain to be agreed upon, Debtor has proposed to Applied Materials that
16 the parties engage in a BDRP session. Debtor is awaiting a response to this suggestion and, if
17 Applied Materials agrees, the parties may request that the Court approve a stipulation to BDRP.

18 **3. CONCLUSION**

19 Debtor respectfully suggests that this Status Conference be continued to July 2011, to
20 allow for completion of, or at least significant progress in, the settlement discussions with
21 Applied Materials. The resolution of that dispute, if possible, would likely affect the disposition
22 of this case. It therefore appears more cost effective to resolve that matter prior to proceeding
23 with the confirmation process.

24 Respectfully submitted,

25 Dated: March 16, 2011

DIEMER, WHITMAN & CARDOSI, LLP

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27 By: /s/ Judith L. Whitman
28 Attorneys for Debtor